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TRADE AND DEVELOPMENT BOARD
Commission on Investment, Technology and
Related Financial Issues
Intergovernmental Group of Experts on Competition Law and Policy
Third session
Geneva, 2 July 2001
Item 2 of the provisional agenda

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

Provisional agenda and annotations

I. PROVISIONAL AGENDA

1. Election of officers
2. Adoption of the agenda and organization of work
3. (i) Consultations on competition law and policy, including the Model Law and studies related to the provisions of the Set of Principles and Rules
   (ii) Work programme, including technical assistance, advisory and training programmes on competition law and policy
4. Provisional agenda for the fourth session
5. Adoption of the report of the Intergovernmental Group of Experts

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II. ANNOTATIONS

Item 1. Election of officers

The Intergovernmental Group of Experts will elect a Chairman and a Vice-Chairman-cum-Rapporteur.

Item 2. Adoption of the agenda and organization of work

The Expert Meeting may wish to adopt the provisional agenda, which is the same as those for previous sessions of the Intergovernmental Group of Experts, and which have always been found suitable for the effective discharge of the Group's duties.

Organization of work

It is proposed that the first plenary meeting, which will open at 10 a.m. on Monday 2 July 2001, be devoted to procedural matters (items 1 and 2 of the provisional agenda) and to introductory statements. The closing plenary meeting, on 4 July, will be devoted to the adoption of the report (item 4). 1/

This will leave the remaining meetings, from the afternoon of 2 July to the morning of 4 July inclusive, for consultations on competition law and policy, including studies related to the provisions of the Set of Principles and Rules (item 3 (i) of the provisional agenda) and the work programme, including technical assistance, advisory and training programme on competition law and policy (item 3 (ii)). If more time is needed, the adoption of the report could be postponed to late afternoon of 4 July, in order for an informal working session to take place that afternoon.

Item 3 (i). Consultations on competition law and policy, including the Model Law and studies related to the provisions of the Set of Principles and Rules

As agreed in paragraph 8 of the Resolution adopted by the Fourth United Nations Conference to Review all Aspects of the Set, 2/ at its third session the Intergovernmental Group of Experts will consider the following issues, for better implementation of the Set, in relation to the studies prepared by the UNCTAD Secretariat:

(a) Cooperation regarding merger control;
(b) The interface between competition policy and intellectual property rights.

Under paragraph 6 of that Resolution, the Fourth Review Conference also noted that "while bilateral competition cooperation efforts are essential, there is need to promote regional as well as multilateral competition initiatives, particularly for smaller and developing economies", and requested "the UNCTAD secretariat to study the possibility of formulating a model cooperation agreement on competition law and policy, based on the UN Set of Principles and Rules on Competition". In line with this request, and given the interest expressed by many delegations in the issue of international

cooperation, a third issue for consideration will be "cooperation and technical assistance in the field of competition law and policy". Should countries wish to hold consultations on additional subjects, they are requested to inform the secretariat well in advance (no later than 15 May 2001) in order for all participants to be able to prepare themselves for such consultations. Moreover, for each of the issues referred to above, the secretariat would encourage experts from both developed and developing countries, as well as countries in transition, to make oral presentations supported by short written contributions to be made available during the consultations.

Further, under paragraph 7 of the same resolution, the Review Conference requested the secretariat to revise documents TD/RBP/CONF.5/4, TD/RBP/CONF.5/5, TD/RBP/CONF.5/6, and TD/RBP/CONF.5/7 in the light of comments by member States at the Conference or to be sent in writing by 31 January 2001 for submission to the next session of the Group of Experts and to make them available through UNCTAD's website. Also, in paragraph 11 of the Resolution, the Review Conference requested the secretariat to prepare for the 2001 session of the Group of Experts a new chapter of the model law on "The relationships between a competition authority and regulatory bodies, including sectoral regulators".

Accordingly, the revised versions of document TD/RBP/CONF.5/4, on "Experiences gained so far with international cooperation on competition policy issues and the mechanisms used"; TD/RBP/CONF.5/6, on "Competition policy and the exercise of intellectual property rights", and the new chapter of the model law will be made available for consideration by the experts in documents TD/B/COM.2/CLP/21, TD/B/COM.2/CLP/22 and TD/B/COM.2/CLP/23 respectively. An updated review of technical assistance (replacing TD/RBP/CONF.5/5) will be submitted under agenda sub-item 3(ii), below.

Finally, as requested under paragraph 12 of the Resolution, the secretariat continued to publish the following documents on a regular basis and to make them available on the Internet:

(a) A further issue of the Handbook on Competition Legislation containing the laws and commentaries from: Georgia, Morocco and Ukraine (published as document TD/B/COM.2/CLP/17);

(b) An updated version of the Directory of Competition Authorities (published as TD/B/COM.2/CLP/18); and,

(c) An information note on recent important competition cases, with special reference to cases involving more than one country, being published separately as document TD/B/COM.2/CLP/24.

These three documents, being non-sessional as far as the Intergovernmental Group of Experts is concerned, might not all be available in due time for the session, but will be included in the UNCTAD website (http://www/unctad.org/competition) as soon as they have been issued.

Item 3 (ii) Work programme, including technical assistance, advisory and training programmes on competition law and policy

Under this item, the Intergovernmental Group of Experts is expected to give guidance to the UNCTAD secretariat as to further work to be undertaken on competition law and policy.

In particular, the experts will have before them an updated review of technical assistance, (TD/B/COM.2/CLP/19), taking into account the information submitted by States and international organizations, as requested in paragraph 7 of the Resolution adopted by the Review Conference. In paragraph 13 of that Resolution, the Review Conference also took note with appreciation of the new UNCTAD Competition Law and Policy website, and requested that forecasted events, such as seminars and other assistance, be indicated as far as possible in advance, to allow member States to be informed and to be in a position to participate in the technical assistance activities organized or sponsored by UNCTAD. The secretariat has done its best to comply with this request in its new Competition and Consumer Policies website at http://www.unctad.org/competition.

On the basis of the review of technical cooperation, the experts will be invited to give guidance to the secretariat on how best to assist developing countries in formulating national competition legislation and regional competition rules, as well as how best to identify financial and technical resources for their implementation.

Item 4. Provisional agenda for the fourth session of the Intergovernmental Group of Experts

As is customary, the Intergovernmental Group of Experts is expected to agree on the provisional agenda for its next session.

Item 5. Adoption of the report of the Intergovernmental Group of Experts

The Intergovernmental Group of Experts on Competition Law and Policy is required to report to the Commission on Investment, Technology and Related Financial Issues.

Note

1/ In view of the short duration of the session, the Rapporteur would be authorized to complete the final report after the close of the session.

2/ See Report of the Fourth United Nations Conference to Review all Aspects of the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (TD/RBP/CONF.5/16), chapter I, page 4.